IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11777 of 2001

To

SPECIAL CIVIL APPLICATION No. 11887 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Petitioner(s)

Versus

JESANGBHAI RAMBHAI KARGATHIA - Respondent(s)

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Appearance :

MR A.D. OZA GOVERNMENT PLEADER for Petitioner(s) : 1,
MR MD RANA for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2,
MS DESAI For MR MD PANDYA for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 18/11/2005

ORAL JUDGMENT

1.0 The petitioner – Panchayats, Rural Housing and

Rural Development Department, State of Gujarat, has preferred these petitions in order to quash and set aside the order dated 27.04.2001 passed by the Labour Court, Junagadh in Recovery Applications, whereby the petitioner State was directed to pay the amount as prayed for in the said Recovery Applications.

2.0 The brief facts of the case are that the workmen herein, respondents no.1, were working as Vijligars with respondent no.2 - Gram Panchayat. The service conditions of the workmen were governed by the contract entered into between respondent no.2 - Gram Panchayat and respondent no.3 – Gujarat Electricity Board. The workmen were paid fixed pay every month by respondent no.3 – Board through respondent no.2 – Gram Panchayat.

2.1 Respondent no.1 - workmen preferred Recovery Applications under Section 33(C)(2) of the Industrial Disputes Act, 1947, before the Labour Court, Junagadh for the recovery of wages. The Labour Court, by impugned award dated 24.07.2001, allowed the said Recovery Applications and directed the petitioner State as well as the Gram Panchayats to pay the amount as prayed for in the said Recovery Applications. Hence, these petitions.

3.0 Heard learned counsel for the parties and perused the documents placed on record. Originally, respondents - workmen had filed References against respondent no.2 – Gram Panchayat. In the said References, award came to be passed against respondent no.2 – Gram Panchayat and at that stage the State Government, petitioner herein was not a party.

3.1 However, in the Recovery Applications, the State Government, petitioner herein, came to be joined as party and the Labour Court held that the petitioner State is liable to pay the amount as prayed for. In my opinion, since the petitioner State was not a party in the original proceedings, it could not be held liable to pay the amount in question. Hence, the impugned order passed by the Labour Court, Junagadh is required to be quashed on this single ground itself.

4.0 In the result, these petitions are allowed. The impugned order dated 27.04.2001 passed by the Labour Court, Junagadh in Recovery Applications qua the petitioner – State Government only is quashed and set aside. It shall be open to the respondents - workmen to

execute the Recovery Applications against respondent no.2 – Gram Panchayat. With the above observation, the petitions stand disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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